

**STATE OF NEW JERSEY**

*Board of Public Utilities*

## *Two Gateway Center*

**Newark, NJ 07102**

***www.bpu.state.nj.us***

## CABLE TELEVISION

IN THE MATTER OF THE PETITION OF COMCAST )  
CABLEVISION OF NORTHWEST NEW JERSEY, )  
INC. FOR A RENEWAL CERTIFICATE OF )  
APPROVAL TO CONTINUE TO CONSTRUCT, )  
OPERATE AND MAINTAIN A CABLE TELEVISION )  
SYSTEM IN AND FOR THE TOWNSHIP OF OXFORD, )  
COUNTY OF WARREN, STATE OF NEW JERSEY )

ORDER ADOPTING INITIAL  
DECISION/SETTLEMENT AND  
RENEWAL  
CERTIFICATE OF APPROVAL

BPU DOCKET NO. CE00050305  
OAL DOCKET NO. CTV 07855-00

Stryker, Tams and Dill, Newark, New Jersey, by Dennis C. Linken, Esq., for the Petitioner.

Benbrook and Benbrook, Clinton, New Jersey, by Kevin P. Benbrook, Esq., for the Township.

Township Clerk, Township of Oxford, New Jersey, by Kathryn A. Becker, for the Township.

BY THE BOARD:

On April 18, 1980, the Board granted Washington Cable Company, Inc. ("Washington") a Certificate of Approval in Docket No. 804C-6670, for the construction, operation and maintenance of a cable television system in the Township of Oxford ("Township"). Prior to the issuance of the Certificate, on January 17, 1980, the Board approved the transfer of the Certificate from Washington to Futurevision Cable Enterprises, Inc. ("Futurevision"), in Docket No. 791C-6614. The Certificate was issued to the petitioning company, Washington, but Futurevision was obliged to meet all obligations agreed to by its predecessor. On September 1, 1988, in Docket No. CM8605542, the Board approved the transfer of the Certificate from Futurevision to Storer Cable Communications of Northwest New Jersey, Inc. d/b/a Storer Cable Communications ("Storer"). On June 6, 1991, the Board granted Storer a Renewal Certificate of Approval for the Township in Docket No. CE90020083. On November 30, 1992, in Docket No. CM92080843, the Board approved the petition of Comcast Cablevision (a 50% shareholder of the Certificate) and Storer to transfer all assets to Comcast Cablevision, Inc. On June 27, 1994, Storer notified the Board's Office of Cable Television that it would now be known as Comcast Cablevision of Northwest New Jersey, Inc. ("Petitioner").

Although the Petitioner's above referenced Certificate expired on April 18, 2000, it is authorized to continue to provide cable television service to the Township pursuant to N.J.S.A. 48:5A-25, pending disposition of proceedings regarding the renewal of its Certificate of Approval.

The Petitioner filed an application for the renewal of its municipal consent with the Township on July 15, 1999, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13. The Township, after public hearing, adopted a municipal ordinance granting renewal consent to the Petitioner on April 20, 2000, for a term of seven years.

On May 19, 2000, pursuant to N.J.S.A. 48:5A-17(d), the Petitioner filed with the Board for a renewal of its Certificate of Approval for the Township. The Petitioner alleged that the Township's actions in granting a renewal term of seven years were arbitrary and capricious. The Township filed an answer to the petition on June 28, 2000.

On September 11, 2000, the Board transmitted the case to the Office of Administrative Law ("OAL") for hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. Administrative Law Judge ("ALJ") William Gural was assigned to the case. The case was assigned OAL Docket No. CTV 7855-00. Subsequently, the Township and the Petitioner concluded negotiations culminating in the adoption of a municipal ordinance granting renewal consent to the Petitioner on July 19, 2001. The ordinance was granted for a term of ten years. The Petitioner indicated its acceptance of the ordinance by letter dated August 28, 2001. On October 2, 2001, the Petitioner filed an amended petition for the Township. The settlement was forwarded to ALJ Gural on October 3, 2001. Subsequently, ALJ Gural held a plenary hearing on May 31, 2002, in order to place the terms of the settlement on the record. On August 1, 2002, ALJ Gural issued an Initial Decision recommending that the Board approve the settlement reached by the parties. The Board received the Initial Decision on August 12, 2002. The Township's ordinance adopted as settlement of the matter on July 19, 2001, required the Petitioner to provide cable Internet service to the school and municipal service properties listed in Provision No. 13 below. However, the settlement as placed on the record before ALJ Gural at the plenary hearing on May 31, 2002, indicated that the parties had agreed to modify the ordinance such that the Petitioner is not required to provide cable Internet service to these locations. On October 16, 2002, the Township amended its ordinance accordingly. On October 23, 2002, the Petitioner accepted the amended ordinance and simultaneously amended its petition.

The Board has reviewed the application for municipal consent, the petition and amended petition for a Renewal Certificate of Approval, and the renewal municipal consent ordinance and amended renewal municipal consent ordinances. Based upon this review and the recommendation of the Office of Cable Television, the Board HEREBY FINDS the following:

1. The Petitioner possesses the requisite legal, character, financial and technical qualifications for the awarding of a Renewal Certificate of Approval. Further, the Township reviewed these qualifications in conjunction with the municipal consent process. See N.J.S.A. 48:5A-22 to 29 and N.J.A.C. 14:18-13.1 et seq.
2. The design and technical specifications of the system will ensure that the Petitioner provides safe, adequate and proper service.

3. The Petitioner has represented that all previously required construction within the franchise territory is complete.
4. The franchise period as stated in the ordinance is ten years. The Board finds this period to be of reasonable duration.
5. The Township may review the performance of the Petitioner with regard to the ordinance on the fifth anniversary of this Certificate and shall be completed no later than six months from that date. If the Township determines that the Petitioner has failed to substantially comply with the material terms and conditions of the ordinance, the Township shall provide written notice to the Petitioner of such alleged instances of non-compliance and shall grant the Petitioner 90 days to cure such deficiency. The Township may petition the Board for appropriate administrative action, including revocation of the franchise, only after the 90-day opportunity to cure has passed and the deficiency has not been cured.
6. The Petitioner's rates shall be regulated and tariffs shall be filed for all services, in accordance with the rules and regulations of the Federal Communications Commission, the Board and the Office of Cable Television. The Petitioner shall maintain informational tariffs for unregulated service rates and promptly file any revisions thereto.
7. Pursuant to N.J.S.A. 48:5A-26(b), the ordinance specifies a complaint officer to receive and act upon complaints filed by subscribers in the Township. In this case, it is the Office of Cable Television. All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5.
8. The Petitioner shall maintain a local business office or agent for the purpose of receiving, investigating and resolving complaints. Currently, the office meeting the requirements of this provision is located at 155 Port Murray Road in Port Murray (Mansfield Township, New Jersey).
9. The franchise fee to be paid to the Township is specified to be 2% of the Petitioner's gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service in the Township. Additional regulatory fees shall be paid to the State in an amount not to exceed 2% of Petitioner's gross operating revenues derived from intrastate operations. The Board finds these fees to be reasonable.
10. The Petitioner shall provide service along any public right-of-way to any person's residence or business located in all areas of the franchise territory at tariffed rates for standard and non-standard installation. In all other circumstances, the Petitioner shall utilize the line extension policy ("LEP") attached to the Certificate. The minimum homes per mile figure is 35.

11. The Petitioner shall provide public, educational and governmental ("PEG") access channels and facilities in accordance with its renewal application and the ordinance. Specifically, the Petitioner shall provide one system wide community access channel for use by subscribers, organizations and entities served by the cable system. The Petitioner shall maintain a fully equipped and operational local production studio for use by the Township, the Petitioner and other access producers. The Petitioner shall provide training in the use of the studio, which is a prerequisite for its use.
12. Within 12 months of the date of issuance of this Certificate, the Petitioner shall provide a capital contribution to the Township in the amount of \$15,000.00 for PEG access support or for any other cable-related purpose the Township may deem appropriate. Upon completion, the Petitioner shall submit proof to the Office of Cable Television indicating its compliance with this provision.
13. The Petitioner shall provide installation and basic service of one outlet, free of charge, to each classroom and instructional space in the Township's elementary school. The Petitioner shall also provide installation and basic service to one outlet, free of charge, to: a) the municipal building; and to each: b) fire department; c) library; d) first aid squad; e) community or senior center; and f) public works building, that is located in or may be constructed within the Township.
14. The Petitioner shall provide free basic Internet access service, via high-speed modem, to the public library in the Township.

Based upon these findings, the Board HEREBY CONCLUDES, pursuant to N.J.S.A. 48:5A-17(a) and 28(c), the Petitioner has the municipal consent necessary to support the petition, that such consent and issuance thereof are in conformity with the requirements of N.J.S.A. 48:5A-1 et seq., that the Petitioner has complied or is ready, willing and able to comply with all applicable rules and regulations imposed by or pursuant to State or federal law as preconditions for engaging in the proposed cable television operations, that the Petitioner has sufficient financial and technical capacity, meets the legal, character and other qualifications necessary to construct, maintain and operate the necessary installations, lines and equipment, and is capable of providing the proposed service in a safe, adequate and proper manner.

Therefore, the Petitioner is HEREBY ISSUED this Renewal Certificate of Approval as evidence of Petitioner's authority to construct and operate a cable television system within the entirety of the Township.

This Renewal Certificate is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television, and any such lawful terms, conditions and limitations as currently exist or may hereafter be attached to the exercise of the privileges granted herein. The Petitioner shall adhere to the standards set forth by the Federal Communications Commission's rules and regulations, 47 C.F.R. §76.1 et seq., including but not limited to, the technical standards 47 C.F.R. §76.601 through §76.630. Any modifications to the provisions thereof shall be incorporated into this Certificate.

Failure to comply with all applicable laws, rules, regulations and orders of the Board or Office of Cable Television and/or the terms, conditions and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.

This Certificate shall expire on April 18, 2010.

DATED:

BOARD OF PUBLIC UTILITIES

BY:

(signed)

JEANNE M. FOX  
PRESIDENT

(signed)

FREDERICK F. BUTLER  
COMMISSIONER

(signed)

CAROL J. MURPHY  
COMMISSIONER

(signed)

CONNIE O HUGHES  
COMMISSIONER

(signed)

JACK ALTER  
COMMISSIONER

ATTEST:

(signed)

KRISTI IZZO  
SECRETARY